



## Legislation Text

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**TO:** Mayor and Commissioners  
**FROM:** Steve Tobias, Interim Development Services Director  
**THROUGH:** Neal de Jesus, Interim City Manager  
**DATE:** August 20, 2019

ORDINANCE NO. 22-19: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING A SMALL-SCALE FUTURE LAND USE MAP AMENDMENT FOR ONE (1) PARCEL OF LAND, AND RE-DESIGNATING SAID LAND FROM PALM BEACH COUNTY COMMERCIAL HIGH (CH-5) TO CITY OF DELRAY BEACH GENERAL COMMERCIAL (GC), PURSUANT TO THE PROVISIONS OF THE "COMMUNITY PLANNING ACT", FLORIDA STATUTES SECTION 163.3187; SAID LAND LOCATED IMMEDIATELY WEST OF SOUTH MILITARY TRAIL, AND IMMEDIATELY SOUTH OF VIA DELRAY BOULEVARD WHICH MEASURES APPROXIMATELY 3.57± ACRES, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (FIRST READING).

### **Recommended Action:**

Review and consider Ordinance No. 22-19 on first reading, a privately initiated request to amend the designation of 3.57± acres on the Future Land Use Map from Palm Beach County Commercial High (CH-5) to City of Delray Beach General Commercial (GC).

### **Background:**

The subject property has requested annexation from Palm Beach County into the City of Delray Beach. Assignment of a City Land Use designation is required upon annexation from Palm Beach County. The site currently has a 199 SF covered area with 4 fuel pumps with 8 fueling stations, a 700 SF convenience store (both built in 1984), and a 720 SF car wash (built in 1995). The applicant states the intention is to redevelop the site in a manner consistent with the 7-Eleven corporate model with a 4,500 SF convenience store, self-service car wash, and eight fuel pumps with 16 fueling stations in the summer of 2019. The applicant indicates in the submitted Justification Statement (attached) that features of the new 7-Eleven corporate model include enhanced architecture, lighting, landscaping, and additional site security, which will be evaluated in a future site plan submittal. The project described by the applicant will require a Class V Site Plan application and a Conditional Use approval.

Pursuant to LDR Section 2.4.5(A), Comprehensive Plan amendments must follow the procedures outlined in the Florida Statutes. The Future Land Use Map (FLUM) amendment is being processed as a small-scale Comprehensive Plan amendment pursuant to Florida Statutes, F.S. 163.3184 through F.S. 163.3253.

### **Findings**

Pursuant to LDR Section 3.1.1, Required Findings, "findings shall be made by the body which has the authority to approve or deny the development application." These findings relate to the FLUM

amendment, Concurrence, Comprehensive Plan Consistency, and Compliance with the Land Development Regulations.

### **Future Land Use Map**

The subject property is not within the City's Planning Area. The current Land Use Designation is Palm Beach County CH-5 - Commercial High. The requested Future Land Use Map Designation is City General Commercial - GC. The Future Land Use Element of the Comprehensive Plan, Table L-6, identifies the zoning districts that are consistent with the Future Land Use Map designations. Pursuant to Table L-6, the proposed General Commercial FLUM designation and the proposed General Commercial (GC) Zoning District are consistent.

### **Consistency**

A finding of Consistency requires that the requested designation is consistent with Goals, Objectives, and Policies of the most recently adopted Comprehensive Plan. An amendment to the Comprehensive Plan (Always Delray) is currently under review by City Commission, but the application is still subject to the adopted plan. The applicable Goals, Objectives, and Policies from the current plan are provided below.

*Future Land Use Policy A-1.2: Zoning changes which would result in strip commercial development shall be avoided. Where strip commercial developments or zoning currently exist along an arterial street, consideration should be given to increasing the depth of the commercial zoning in order to provide for better project design. Strip commercial development, in this context, is characterized by several of the following design features: buildings are arranged in a linear (or strip) format on a narrow depth lot; parking is generally street frontage or on-street; uses are one store deep; no design integration among individual uses; typically no pedestrian access between adjacent developments; very little or no uniformity of signage on an individual development.*

The subject property is not a strip commercial development and provides neighborhood-serving commercial services in a compact node.

*Future Land Use Element Policy A-1.7: Amendments to the Future Land Use Map (FLUM) must be based upon the findings listed below, and must be supported by data and analysis that demonstrate compliance with these findings:*

- 1. Demonstrated Need -- That there is a need for the requested land use. The need must be based upon circumstances such as shifts in demographic trends, changes in the availability of land, changes in the existing character and FLUM designations of the surrounding area, fulfillment of a comprehensive plan objective or policy, annexation into the municipal boundaries, or similar circumstances. The need must be supported by data and analysis verifying the changing demographics or other circumstances. This requirement shall not apply to requests for the FLUM designations of Conservation or Recreation and Open Space; nor shall it apply to FLUM changes associated with annexations when the City's advisory FLUM designation is being applied, or when the requested designation is of a similar intensity to the advisory designation. However, the findings described in the remainder of this policy must be addressed with all FLUM amendments.*

A land use plan amendment is necessary for any parcel annexing into the City of Delray

Beach.

2. *Consistency -- The requested designation is consistent with goals, objectives, and policies of the most recently adopted Comprehensive Plan.*

Goal A of the Future Land Use Element of the Comprehensive Plan says that “Land within the Planning Area shall be developed or redeveloped to sustain and enhance the existing quality of life, compliment and be compatible with existing land use and result in a mixed, but predominately residential community with a balanced economic base and encourage accessible affordable everyday services.” A gas station and convenience retail in proximity to residential development provides everyday services to residents within the City of Delray Beach.

3. *Concurrency -- Development at the highest intensity possible under the requested designation can meet the adopted concurrency standards.*

The subject property was previously subject to Palm Beach County land use and zoning at the highest commercial intensity possible, and it was determined to have sufficient capacity. Compliance with traffic, schools, utilities, and solid waste is described below.

Traffic. The City has determined that a traffic study is not necessary because the applicant is requesting City land use and zoning designations that are to a comparable the current County designation; additionally, the site is already developed. Any future increases in the intensity of the development on the site would require a re-evaluation of concurrency standards, including traffic, under Site Plan application.

Schools. Commercial development is not subject to school concurrency evaluation. Furthermore, the applicant indicates that a deed restriction is in place for the property that prevents the site from becoming a residential development. Therefore, there will be no negative impact on the public school system.

Utilities. The Comprehensive Plan Future Land Use Element, Policy B-3.2, indicates water and sewer facilities may be provided to unincorporated areas by the City, upon demand, along with an annexation agreement. The provision of water facilities shall be accompanied by an agreement to voluntarily annex upon eligibility unless the property is already eligible in which case, annexation shall precede the provision of services. Availability of utilities is discussed below.

Water. The City’s Water Atlas and the survey indicate water is already provided by the City to the site via a 12” water main located within the Military Trail right-of-way.

Sewer. The survey indicates sanitary sewer service is provided. The City’s Sewer Atlas indicates that sewer service is not provided to the site by the City. Under Future Land Use Policy B-3.1, the City is not required to provide services upon annexation in areas that receive these services from Palm Beach County. Therefore, the property can remain on Palm Beach County sanitary sewer service, thereby there is no impact on City sanitary sewer facilities.

**Solid Waste.** The Solid Waste Authority (SWA) is the waste collector for both the City and the County. Since the use as a gas station and convenience store is not changing in this application, no new impact will result. Changes in intensity and the potential impacts, will be evaluated as part of any subsequent site plan submittals.

**Drainage.** The City will review drainage plans upon receipt of a site plan application. At site plan submittal, the applicant will be required to provide a signed and sealed drainage report indicating the proposed system's ability to meet storm water requirements in accordance with the South Florida Water Management District regulations per LDR Section 2.4.3 (D) (8); requirements in LDR Section 6.1.9 for the surface water management system; and signed and sealed calculations indicating current and proposed estimated flows into City's sewer system. A letter from the Deputy Director of Public Utilities stating that the City's system has sufficient capacity to treat proposed flows will be issued upon review and approval of submitted site plans.

4. *Compatibility -- The requested designation will be compatible with existing and future land uses of the surrounding area.*

The land use on the site was previously determined compatible with surrounding properties by Palm Beach County. The proposed City of Delray Beach land use is comparable to the existing County land use. Under the proposed General Commercial (GC) land use, General Commercial (GC) zoning is considered a compatible zoning district. Furthermore, the proposed zoning is compatible with the existing uses. The subject property does not possess any specific characteristics that would be negatively impacted by the adoption of the GC - General Commercial designation. The adjacent FLUM designations are indicated below:

**North:** Unincorporated Palm Beach County CH-0/5 Commercial High Office, with an underlying MR-5

**South:** Unincorporated Palm Beach County Medium Density Residential 5 units per acre (MR-5)

**East:** City of Delray Beach Medium Density 5-12 du/acre (MD)

**West:** Unincorporated Palm Beach County Medium Density Residential 5 units per acre (MR-5)

The proposed gas station and convenience store is consistent with the FLUM designation, and consistent with the surrounding land use map designations.

5. *Compliance -- Development under the requested designation will comply with the provisions and requirements of the Land Development Regulations.*

The development described by the applicant in the submitted Justification Statement will require a Site Plan application with a Conditional Use application. The applicant has indicated the timeframe to submit these applications is the summer of 2019 to replace the existing gas station, car wash, and fuel pumps with a higher intensity, but similar development. The proposed development will be subject to all applicable provisions and

requirements of the Land Development Regulations. Inasmuch as the existing gas station and convenience store were built in 1984, the development review process will likely result in a higher quality development than currently exists on the site.

*Conservation Element Policy B-2.1: The submission of a biological survey and a habitat analysis shall accompany land use requests for plan amendments, rezonings, and site plan approval. However, the requirement shall not apply to small parcels, developed parcels, or where it is apparent that there are no such resources.*

*Conservation Element Policy B-2.2: Whenever and wherever significant or sensitive flora and fauna communities are identified, plans shall be required to preserve the habitat to the extent feasible, or provide for mitigation if preservation is infeasible or inappropriate.*

A field review was conducted of the subject property to determine whether there are any significant habitats or biological communities. Based upon the existing conditions of the properties, it was determined that a biological survey and a habitat analysis are not required. However, the preservation of particular native trees will be addressed during the site plan review process.

The Planning and Zoning Board Reviewed Ordinance No. 22-19 at the July 15, 2019 meeting and recommended approval (5-0).

**City Attorney Review:**

Ordinance 22-19 was approved to form and legal sufficiency on July 22, 2019.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

This request is concurrent with the consideration of Ordinance No. 21-19.